

IN THE UNITED DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

JANICE MORGAN, BARBARA)
RICHARDSON, CORA CANNON,)
LAURIE R. TROUT (WILSON))
on behalf of themselves)
and all others similarly situated,)

Plaintiffs,)

vs.)

CIVIL ACTION NUMBER:
CV-01-C-0303-W

FAMILY DOLLAR STORES, INC.,)
)
Defendants.)

PLAINTIFFS' RENEWED MOTION
FOR ATTORNEYS' FEES AND EXPENSES

Come now the plaintiffs, and move the Court for an award of attorneys' fees and expenses pursuant to 29 U.S.C. Section 216(b). As grounds, plaintiffs state the following:

1. The Court originally entered judgment for the plaintiffs on March 31, 2006.
Dkt. #592.
2. Subsequent to the Court's entry of judgment, the plaintiffs filed a Bill of Costs (Dkt. #665) and Motion for Attorneys' Fees and Expenses (Dkt. #656).
3. The Court denied plaintiffs' Motion without prejudice "to its reinstatement

upon the final resolution of the merits of this case” in “recognition of the reality that either the United States Court of Appeals for the Eleventh Circuit or the United States Supreme Court will ultimately decide whether the Plaintiffs have prevailed in this action” and “in the interest of judicial economy.” Dkt. #672.

4. The Court entered an amended final judgment for the plaintiffs on April 16, 2007, in the amount of \$35,576,059.48, for defendant’s violation of the Fair Labor Standards Act. Dkt. #708.
5. The Eleventh Circuit issued a Memorandum Opinion and Order affirming the Court’s judgment on December 22, 2008. *See Morgan v. Family Dollar Stores, Inc.*, 551 F.3d 1233 (11th Cir. 2008).
6. The plaintiffs moved for the attorneys’ fees and expenses incurred during the appeal of this case, and the Eleventh Circuit granted plaintiffs’ Motion because they were prevailing parties. However, the Eleventh Circuit remanded to the Court the determination of the amount of fees and expenses that should be awarded to plaintiffs.
7. Subsequently, the defendant petitioned the United States Supreme Court for a writ of certiorari to review the Eleventh Circuit’s decision. The Supreme Court denied the defendant’s petition on October 5, 2009.

8. Section 216(b) of the Fair Labor Standards Act provides that “[t]he court . . . shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney’s fee to be paid by the defendant, and costs of the action.” 29 U.S.C. §216(b).
9. Based upon the hours expended in the case, the hourly rates appropriate for the attorneys and paralegals involved, and the application of the standards set forth in *Johnson v. Georgia Highway Express*, 488 F.2d 714 (5th Cir. 1974) and *Pennsylvania v. Delaware Valley Citizens' Council for Clean Air*, 483 U.S. 711 (1987), plaintiffs request an award of attorneys’ fees and expenses in the amount of \$10,782,000. *See e.g. Dowdell v. City of Apopka, Fla*, 698 F.2d 1181, 1190 (11th Cir. 1983).
10. Plaintiffs further seek an upward adjustment of such lodestar for: (1) the risk of non-payment of a substantial amount of time and expense; (2) the delay in payment; (3) the novel and difficult issues involved; (4) the preclusion of other employment; (5) the undesirability of the case; and (6) the exceptional results obtained.
11. Plaintiffs have filed this Motion to re-initiate the request for an award of attorneys’ fees and expenses. The parties previously agreed to submit an appropriate briefing schedule with the Court regarding this Motion after the

Supreme Court's resolution of the defendant's petition for a writ of certiorari.

WHEREFORE, plaintiffs request entry of judgment awarding attorneys' fees and expenses in the amount of \$10,782,000, together with an upward adjustment of one hundred percent for risk, delay, novelty, difficulty, undesirability, exceptional results and preclusion of other employment.

Respectfully submitted,

/s/ Herman N. Johnson, Jr.

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CERTIFICATE OF SERVICE

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